IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUMMONS FOR JUDGMENT NO.386 of 2006

IN

SUMMARY SUIT NO.1910 OF 2006

...

Munnawar Husain Siddiqui ...Plaintiff

v/s.

M/s.National India Contractors

and Engineers and ors. ...Respondents

...

Mr.Y.M.Siddiqui with Ms.T.P.Thakkar for the Plaintiff.

Mr.B.B.Saraf for the Defendants.

...

CORAM: D.K.DESHMUKH, J.

DATED: 23RD JANUARY,2007

P.C.:

There are no pleadings in the plaint that there is a written contract between the Plaintiff and the Defendants. Even after the Defendants raised an objection to that effect, the Plaintiff has not even tried to amend the plaint by incorporating a pleading that there is a written contract between the parties and how that contract came into existence.

Under Order XXXVII of CPC the suits which are not based on a written contract,or an enactment or on a guarantee cannot be tried as a summary suit. As the suit cannot be tried as a summary suit, the Defendants obviously are entitled to leave to defend the suit unconditionally.

Summons for judgment is, therefore, disposed of. Defendants are granted unconditional leave to defend the suit. Suit be transferred to commercial cause list. Written statement to be filed within eight weeks from today.

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